

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division

CIT SMALL BUSINESS)	
LENDING CORP,)	
)	
Plaintiff,)	
v.)	Civil Action No. 1:10-cv-133 (AJT/TRJ)
)	
POWERHOUSE ALEXANDRIA, <i>et al.</i>)	
)	
Defendant.)	
_____)	

ORDER

This matter is before the Court on the Report and Recommendation (Doc. No. 14) of the Magistrate Judge recommending that default judgment be entered against defendants Powerhouse Alexandria, Inc. ("Powerhouse"), Mario C. Pieri, and Petros Pieri (collectively, the "individual defendants"). Specifically, the Magistrate Judge found that (1) the promissory note ("Note") executed by Powerhouse in favor of plaintiff in the amount of \$940,000.00 on March 6, 2008 is a negotiable instrument under Virginia Code § 8.3A-104; (2) Powerhouse is in default on the Note because it failed to make payments on the Note; (3) plaintiff may bring suit upon the Note pursuant to Virginia Code § 8.01-27; (4) the individual defendants unconditionally guaranteed payment to plaintiff of all amounts due under the Note and that plaintiff may therefore collect payment from the individual defendants; (5) under the terms of the Note, plaintiff is entitled to recover expenses to collect amounts due and enforce the Note, and may add those expenses to the principle balance due; (6) plaintiff is entitled to recover from defendants: (i) \$94,000,000.00 for principal outstanding under the Note; (ii) interest under the Note calculated at a rate of prime plus 2.5%, accruing annually; (iii) late charges in an amount up to 5% of the unpaid portion of regularly scheduled payments equal to \$3,638.41; and (iv)

collection expenses equal to \$1,645.05; (7) the magistrate judge finds that the interest due under the Note and to which plaintiff is entitled is equal to \$68,369.90, plus interest from February 2, 2010 of \$148.08 per diem; and (8) under the terms of the Note, plaintiff is entitled to attorneys' fees and costs necessary to collect amounts due under the Note, which to date are \$3,160.50 and \$1,028.02 respectively.

The Magistrate Judge, therefore, recommends that default judgment be entered against defendants, jointly and severally, in favor of plaintiff in the amount of \$1,017,841.88, plus per diem interest from February 2, 2010 of \$148.08 through the date of judgment.¹

No objections were filed to the Report and Recommendation (Doc. No. 14) of the Magistrate Judge. The Court conducted a *de novo* review of the evidence, including the complaint, together with exhibits, plaintiff's motion for default judgment, the memorandum in support of the motion, and the supplemental memorandum in support of the motion, and adopts and incorporates the findings and recommendations of the Magistrate Judge. Accordingly, it is hereby

ORDERED that Plaintiff's motion for default judgment (Doc. No. 11) be, and the same hereby is, GRANTED, and judgment be, and the same hereby is, entered against defendants in the amount of \$1,017,841.88, plus per diem interest from February 2, 2010 of \$148.08 through the date of judgment.

¹ The Court notes that on page 4 of the Report and Recommendation the Magistrate Judge recommends that default judgment be entered against defendants, jointly and severally, in favor of plaintiff in the amount of \$1,027,886.88. Based on its *de novo* review of the evidence, the Court finds, consistent with the Magistrate Judge's underlying recommendation, that \$1,017,841.88 is the correct amount of the default judgment to be jointly and severally entered against defendants.

The clerk is directed to enter judgment pursuant to Fed. R. Civ. P. 55 and 58, and is directed to send a copy of this Order to all counsel of record and to defendants at their addresses on record.



Anthony J. Trenga
United States District Judge

Alexandria, Virginia
December 13, 2010